

ANDOVER BOARD OF HEALTH

Minutes

September 14, 2009, 6 P.M.

1st Floor Conference Room

36 Bartlet Street

The Board of Health meeting was called to order at 6:01 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Margaret N. Kruse, Clerk, Mr. Thomas G. Carbone, Director of Public Health, and Member designee, Ms. Katherine Kellman who will be replacing Ms. Kruse. Dr. Donald H. Miller, Vice-Chairman, was not present due to a scheduling conflict.

I. Approval of Minutes

- Regular Meeting of August 10, 2009

Motion by Ms. Martin, seconded by Ms. Kruse to approve the Minutes of the Regular Meeting of August 10, 2009. Unanimous Approval.

II. Appointments & Hearings

- **6:00 p.m. – Yee Yang for Thai Sweet Basil – Status Update** – Present were Mr. Yee Yang and Michelle Cramm, the private inspector hired by Mr. Yang for the required monthly inspections. Mr. Carbone explained that this was a continued Hearing. At the March Board of Health Meeting the Board decided to change the requirement for monthly private inspections to every other month. However, when Ms. Patricia Crafts, Health Agent, did her inspection on September 9, 2009, she found several of the same violations, such as raw chicken at improper temperatures, eggs not refrigerated, and wipe rags left out of the sanitizer. Mr. Yang explained that Ms. Crafts came at lunchtime when the restaurant is very busy, and that something was wrong with their thermometer. Ms. Cramm told the Board that she has made a cleaning list, recalibrated the thermometer, and has reeducated the staff on certain food issues. Ms. Cramm has a person who translates her instructions to the staff in Thai. A vent cleaning company has been hired as well. The Board members stated that since the same issues still seem to be reoccurring, they wanted two more inspections to be done by December, and required one to be a joint inspection with Ms. Cramm and Ms. Crafts.

Motion by Ms. Martin, seconded by Ms. Kruse to continue this Hearing to the December 14, 2009 Meeting with the requirement that two more inspections be done, one as a joint unannounced inspection with a Health Inspector from our office, and the requirement that no issues are present at these two inspections. Unanimous approval.

- **6:15 p.m. – George Dukas for Lantern Brunch – Status Update** - Present were Mr. Dukas and Mark Smith, Contractor. Mr. Carbone explained that this was a Show Cause Hearing that was continued for six months from the March 9, 2009 Board of Health Meeting. During that time, the self-inspections were to be done every other

month for six months. On August 31, 2009, Ms. Crafts, Health Inspector, found continuing problems; some as a result of the old age of the equipment and facility, others were continuing problems with food handling and improper holding temperatures. Mr. Dukas stated that he has taken care of some of the equipment problems and has a new special container that can be frozen overnight and used to keep the eggs cold during the day as well as a similar container for the bacon. Test strips for the sanitizer have been purchased and are now being used and personal items are now put into a locker away from the food. Mr. Smith informed Mr. Carbone that he should have drawings in by the end of the week for the update of the kitchen with the hope that those plans would be in place and approved for potential new buyers. The Board would like the plans in by the October 5, 2009 Meeting so they can review them before the December 14, 2009 Board of Health Meeting, at which time they will again review the actions of the staff at Lantern Brunch.

Motion by Ms. Martin, seconded by Ms. Kruse to continue this Hearing to the December 14, 2009 Board of Health Meeting with the requirement that Mr. Dukas continue with his self inspections. Unanimous approval.

- **6:40 p.m. – Attorney Michael Abodeely for 27 Kirkland Drive – Show Cause Hearing for Condemnation (Continued)** - Present were Attorney Michael Abodeely and several neighbors. The Board was not pleased with the progress of the cleanup at this property, as well as the fact that this Hearing has been continued several times. Mr. Carbone had current pictures from the yard that showed the driveway still full of household rubbish and containers of recycled materials that have standing water in them, as well as vegetation that blocks the back egress from the house. Also, the handrail on the front steps is still not attached. Atty. Abodeely explained that Mr. Santangelo had thrown out important items in the trash, causing his son Mark to have to sort through the trash to retrieve the items, and then separate the trash from the recyclables. Mr. Santangelo got very sick afterwards, and Mark was the only one left that could go through these items. Atty. Abodeely stated that the walkway was fixed, and that quite a bit of progress had been made with the cleanup. The Board did not feel that enough cleanup has occurred since the August 10, 2009 Meeting where the Board clearly stated that it expected all solid waste and recycling to be removed from the property by the September 14, 2009 Board of Health Hearing. There was a concern as well that the oxygen tanks were still on the property. The neighbors expressed frustration that the trash on the property has been there for years with the promise to clean the property going unfulfilled, causing a health issue in the neighborhood. The Board rejected Atty. Abodeely's request for more time for his clients to finish the cleanup, and held true to the directive issued at the August 10, 2009 Board of Health Meeting.

Motion by Ms. Kruse, seconded by Ms. Martin, to have the Health Director take appropriate action in housing court to get the rubbish out of the driveway, the hand railing on the front steps attached, and access to the rear egress cleared of all debris. Unanimous Approval.

III. Discussion

- **Welcome to New Member** – Mr. Carbone introduced Katherine Kellman, the new Board of Health Member who will begin her service at the next scheduled Board of Health Meeting on October 5, 2009. Mr. Carbone informed Ms. Kellman that he had a disc from the Massachusetts Associated Health Boards to help her with information on the workings of Boards of Health, and would be mailing that to her.
- **Animal Regulations vs. Bylaw** – Mr. Carbone explained that he received a call from Lisa Nicosia-Stanton, a resident who had issues with the two small donkeys in her neighborhood. She was proposing a new bylaw regulating animals that includes more detailed regulations for all types of animals in one bylaw. Mr. Carbone stated that the Board had spoken in the past about updating the Animal Regulations and adding a provision that there be abutter notification when a person seeks an animal permit. Ms. Nicosia-Stanton wanted to get the Board's feelings about whether we should have regulations or a bylaw. If the Board decided to go with Regulations, Ms. Martin suggested holding a Public Meeting before any changes are made. Mr. Carbone stated that the Board of Health can enact new regulations without a Hearing and then publish them. There was discussion of bringing in Dr. Lindsay, Veterinarian, to help to address some of the animal issues and possibly form a sub-committee along with Ms. Nicosia-Stanton as well as some animal husbandry people or people from the Talent Bank who may be interested. The Board will discuss the issue again at the October Board of Health Meeting.

IV. Old Business

- **Salt Shed Update** – Mr. Carbone informed the Board that he got in touch with Patty Levenworth's office and spoke with her Assistant. Mr. Carbone is trying to set up a meeting in October for a status update, and will mail out a few dates to try to get the meeting set up. There are several issues that need to be cleared up; there is some confusion about how the funding will happen, there is an issue with the new site location, as well as the issue of the upcoming expiration of the use of the Port-a-Potty at the current site.

V. Definitive Subdivision Plans

- **Merrimack Estates – Revised Water Main Loop and Drainage Basin Access** – Mr. Carbone explained that there were no changes to lot lines or septic location, just to the water main loop. There is also better access into the drainage basin to get in to clean it out. Mr. Carbone recommended approval.

Motion by Ms. Martin, seconded by Ms. Kruse to approve the Definitive Subdivision of Merrimack Estates, with the following conditions:

1. *Any modification, amendment, or change to the above-cited Definitive Plan shall be submitted as a new or modified Definitive Plan in accordance with the provisions of MGL Chapter 41, Section 81U.*
2. *Subject to Conservation Commission approval of the above dated plan by Order of Conditions or Negative Determination.*

Unanimous approval.

VI. Plan Review

A. D.W.R.P. Variances/Local Upgrade Approvals (LUA) –

- **5 Candlewood Drive – LUA to allow SAS to be 4’ above SHWT where 5’ is Required. Allow Septic Tank to be 5’ from Foundation and Property Line (2 separate LUA’s) where 10’ is required.** - Mr. Carbone explained that the designer needs to shrink the system a little more and that when a septic tank is less than 10’ from a property line, the abutting property owner needs to be notified. Mr. Carbone has notified the abutter and she has no concerns with the issue. Since more work has to be done on this plan, Mr. Carbone recommended continuing to the next Board of Health Meeting on October 5, 2009 when he expects to see new LUA’s.

Motion by Ms. Martin, seconded by Ms. Kruse to continue the matter for the LUA’s at 5 Candlewood Drive until a later date after new plans are submitted. Unanimous approval.

- **5 Apple Blossom Road – LUA to allow SAS to be 4’ above SHWT where 5’ is Required** - Mr. Carbone explained that the property is outside our watershed and is far enough away from the well location of the Tewksbury Hospital Groundwater Protection District. Mr. Carbone recommended approval.

Motion by Ms. Kruse, seconded by Ms. Martin to approve the LUA to allow SAS to be 4’ above SHWT where 5’ is required. Unanimous approval.

- **11 Dean Circle – LUA to allow SAS to be 15’ from the Foundation where 20’ is Required** – Mr. Carbone explained that the plan is in full compliance except for the leachfield and the Engineer has justified the need for the LUA. Mr. Carbone recommended approval.

Motion by Ms. Martin, seconded by Ms. Kruse to approve the LUA for 11 Dean Circle – LUA to allow SAS to be 15’ from the Foundation where 20’ is required. Unanimous approval

VII. Staff Reports

A. Director's Reports:

- **Flu Clinic Dates** – Mr. Carbone gave the list of the Andover Health Division Seasonal Flu Clinic dates to the Board of Health in their packets. The seasonal flu vaccinations will start in October, and the notices with the list of dates and times will be distributed throughout the Town.
- **FY10 Budget Impacts** – Mr. Carbone stated that he and Ms. Martin would be attending the Board of Selectman Meeting this evening to justify the need for Daniel Tremblay, Health Agent, who is retiring in February of 2010, to come back after retirement for ten to fifteen hours per week to do inspections. Mr. Tremblay conducts the Right-to-Know Trainings, is the representative for the Safety Committee, and films training and health videos. In the past year alone, he has conducted over three hundred State mandated inspections. Health permits have remained steady with 212 permits issued last year, and 202 so far this year. Some services will have to stop, and we will have to determine the most important issues to deal with. As of this time, Mr. Carbone is a Certified Soil Evaluator; however, Ms. Patty Crafts, the only other Health Inspector is not, but will become certified in the Spring. Mr. Carbone may recommend doing nothing with beaver issues. Food inspections are still not up to date even with the use of Grant money to hire a consultant to help out with them. Mr. Carbone has been assessing the Title V issues, and will pick up some of the testing in addition to his other duties. The Town Manager just approved reducing office hours to 8 a.m. to 3 p.m. to allow staff time to get caught up due to recent staff reductions in the Community Development & Planning Department.
- **Pandemic Flu Planning** – Mr. Carbone explained to the Board that there was no specific guidance so far for the H1N1 flu vaccine, and we are expecting to get the vaccine by November. There will be a very specific priority list that will have to be followed, so the H1N1 vaccine will be distributed differently than the seasonal flu vaccine.
- **Daniel Tremblay Retirement** – Mr. Tremblay R.S., Health Agent, will be retiring in the middle of February, 2010.
- **North Andover West Nile Virus Mosquito Pool** – There have been reports that Methuen had a positive EEE or WNV case. The good thing is that now that September is here, there is less activity due to the cooler temperatures.
- **Town of Andover Health Division Organizational Chart** – Mr. Carbone included the organizational chart in the packet for the benefit of Ms. Kellman, who will be joining the Board of Health in October 2009. Mr. Carbone

explained that he receives his authority and guidance from the Board of Health, and gets direction from the Town Manager.

- **Important Dates:**

- **September 16 @ 7:30 p.m. – Candy and Tom to Recycling Committee**
- Ms. Martin and Mr. Carbone informed the Board that they would be attending the Recycling Committee Meeting to offer the Board's support. They will inform the Recycling Committee that the Board of Health is open to having a dialogue with them and will offer the Board's expertise and cooperation if there is anything the Board can do to help.
- September 21 @ 9:30 a.m. to 12:30 p.m. – Flu Summit @ Holy Family Hospital
- September 30 – State-wide Flu Summit
- October 5 @ 6 p.m. – Board of Health Meeting
- October 7 @ 7 p.m. – Special Town Meeting
- October 27 – 30 – MHOA Conference in Springfield
- November 16 @ 6 p.m. – Board of Health Meeting

B. **Nurses' Reports for June, July, and August, 2009** –The Nurses' reports were for informational purposes only.

C. **Inspectors' Reports for July, 2009** –The Inspectors' Reports were for informational purposes only.

VIII. Board Member Reports

- **Mainline Creamery (Not on Agenda)** – The Board thought that the letter Mr. Carbone sent to the owner of the Mainline Creamery was very good, and expressed disappointment that the owner did not come in and file for the variance because they would have liked to hear his side of the issue.
- **Football Concession Stand (In Correspondence)** – Mr. Carbone informed the Board that Ms. Crafts, Health Agent, had the situation under control concerning the lack of permitting at this venue, and permits will be issued from now on.

IX. Adjournment

Motion by Ms. Kruse, seconded by Ms. Martin to adjourn at 8:12 p.m. Unanimous approval.